

Session 11-17, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Minsch at 6:30 p.m. on December 7, 2011 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS DOLMA, ERICKSON, HIGHLAND, MINSCH, SONNEBORN, VENUTI

ABSENT: COMMISSIONER BOS

STAFF: CITY PLANNER ABBOD  
PLANNING TECHNICIAN ENGBRETSSEN  
DEPUTY CITY CLERK JACOBSEN

### **APPROVAL OF AGENDA**

The agenda was approved by consensus of the Commission.

### **PUBLIC COMMENT**

The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

There were no comments.

### **RECONSIDERATION**

### **ADOPTION OF CONSENT AGENDA**

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.

1. Approval of the November 16, 2011 minutes
2. Draft Decision and Findings for CUP 11-13, A Request to amend Conditional Use Permit (CUP) 10-06, for "Public Utility Facilities and Structures" for a communication site at 1033 Skyline Drive, Lot 5 Skyline View Subdivision Lying South of Skyline Drive 06 to allow construction of a 96 ft tower.
3. Draft Decision and Findings for Variance 11-02, A Request to Amend Variance 10-01 to allow the construction of a 96 ft tower in the 20' building setback at 1033 Skyline Drive, Lot 5 Skyline View Subdivision Lying South of Skyline Drive.

Items 2 and 3 were moved to new business at the request of Commissioner Sonneborn and the remaining Consent Agenda item was approved by consensus of the Commission.

### **PRESENTATIONS**

### **REPORTS**

- A. Staff Report PL11-123, City Planner's Report

City Planner Abboud reviewed his staff report.

### **PUBLIC HEARINGS**

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Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

A. Staff Report PL 11-122, An Ordinance of the City Council of Homer, Alaska, Enacting Homer City Code Chapter 21.27, East End Mixed Use District

Planning Technician Engebretsen reviewed the staff report.

Rika Mouw commented on behalf of Dorothy Melambianakis, a property owner in the area. She addressed Ms. Melambianakis' letter in the packet that encourages removal of the Rural Residential district from the proposed East End Mixed Use District for the reasoning listed in her letter.

Michael Kennedy, city resident and property owner in the area, expressed opposition to changes to the GC2 District. He explained that it is the only zoning that allows for industry, there is very little land zoned that way, it was created for a reason, and people purchased property in the area because it was the only GC2 zoned land accessible by road. The area was even expanded about 10 years ago. East End Mixed Use is going to make less use of GC2 land that is currently undeveloped. He concurs that Rural Residential should be left out too.

In response to Commission comments that the industrial uses are still allowed as conditional uses, Mr. Kennedy explained that conditional use devalues the property from what was originally allowed out right when people bought their property. When conditions are put on uses, it can make it economically unfeasible to use the land.

Mike Arno, property owner in the area, commented that he would like the zoning to remain the same. He agrees that rural residential does not mix with industrial. He has experienced clashes with neighbors regarding the noise and large trucks going by. The zoning is limited and if we want more business in Homer we have to have an area for it. He expressed concerns regarding conditional uses with residential land owners opposing industrial development making the permitting process even more difficult. More separation is better.

In response to Commission comments that the ordinance states conflicts will be resolved in favor commercial, Mr. Arno said regardless of what the paper says it still creates personality problems and clashes between people.

There were no further comments and the public hearing was closed.

DOLMA/SONNEBORN MOVED TO BRING DRAFT ORDINANCE CREATING THE EAST END MIXED USE ZONING DISTRICT AND AMENDING THE ZONING MAP TO THE FLOOR FOR CONSIDERATION.

There was no opposition expressed and discussion ensued.

HIGHLAND/DOLMA MOVED TO ADD AN ADDITIONAL CLAUSE TO READ WHEREAS WHILE RECOGNIZING VALUE OF THE EXISTING DEVELOPED COMMERCIAL PROPERTIES WE STILL NEED TO RECOGNIZE THE IMPORTANCE, VALUES, AND FUNCTIONALITY OF THE EXISTING WETLANDS AND DISCHARGE SLOPE.

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There was discussion that much of the area is wetlands that serve important uses that weren't recognized in the past, and while there is a need for GC2 there isn't enough land to satisfy all the needs. It was also suggested that people may think it is possible to easily build industrial uses in this area, when it isn't with all the wetlands in the area.

City Planner Abboud explained that whereas clauses should be related to the objective of the ordinance and while this is a thoughtful clause it isn't going to be adopted into the code.

VOTE: YES: HIGHLAND  
NO: MINSCH, SONNEBORN, VENUTI, ERICKSON, DOLMA

Motion failed.

SONNEBORN/ERICKSON MOVED TO ALTER THE BOUNDARIES OF THE EAST END MIXED USE ARE TO INCLUDE VIKKI SIMPSONS LOT AT 5057 KACHEMAK DRIVE LOT 179-080-08.

There was brief discussion of the request from Ms. Simpson regarding her lot that borders the district.

VOTE: YES: HIGHLAND, SONNEBORN, MINSCH, VENUTI, ERICKSON  
NO: DOLMA

Motion carried.

HIGHLAND/ERICKSON MOVED TO LEAVE THE RURAL RESIDENTIAL AS IS IN THE CURRENT ZONING OFF OF ALDER LANE.

There was discussion that that the other side of Alder Lane is remaining Rural Residential and the letters from Ms. Melambianakis raises good points as well as other comments regarding changes to this district.

VOTE: YES: SONNEBORN, DOLMA, ERICKSON, HIGHLAND, VENUTI  
NO: MINSCH

Motion carried.

DOLMA/SONNEBORN MOVED TO ACCEPT THE AMENDED DRAFT ORDINANCE AND FORWARD IT TO CITY COUNCIL FOR ADOPTION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

## **PLAT CONSIDERATION**

- A. Staff Report PL 11-120, Barnett Subdivision, Quiet Creek Addition No. 2 Preliminary Plat

Planning Technician Engebretsen reviewed the staff report.

Roger Imhoff, project surveyor, commented that he and Theodora Accinelli, attorney representing Alaska USA, were in attendance and asked to reserve comment until the end of the public comment period.

Bill Frank, homeowner in Quiet Creek, recognized it isn't in the Commissions scope to determine ownership. He provided brief history of a previous application to replat that was withdrawn. He said it is their belief that once the first condo unit was sold the land could not be withdrawn or re-platted because with the purchase of a unit you buy the footprint and an undivided pro rata share of the adjoining property. He questioned why the condo owners would have to sign the plat and raised the issue of the title company underwriter's instruction to not discuss the plat due to potential litigation.

Chair Minsch commented that the City does not have platting authority and is only advisory in their input to the Borough.

Roger Imhoff raised question about earlier comments the City Planner had made regarding steep slope ordinance and whether it applied to this subdivision. City Planner Abboud clarified he made a general comment regarding the ordinance. Mr. Imhoff said the condo owners would need to sign the plat due to their title interest in upper tract. He explained the plat divides out a portion of the plat that Alaska USA has title to. He summarized the certificate to plat noting that Alaska USA has title in 3 condo units; tract A, the parent plat, except for the condo units owned by other parties; and to any future development rights. This is outlined in the title statements supported by the underwriters. Alaska USA was the lender and after foreclosure became the owner with the fiduciary responsibility to the members of the credit union to try to recover losses. The staff is correct that this may end up in court, but the applicant wants to take this first step of preliminary approval from the City.

Theodora Accinelli offered a correction that Alaska USA took title to tract A, except for the condo unit project. The land that was foreclosed on consisted of a northern and southern section. She believes they are platting out the southern section but there will come a time when they plat the northern section and may have to address the steep slopes.

VENUTI/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 11-120 BARNETT SUBDIVISION QUIET CREEK ADDITION NUMBER 2 PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

Comment was made that everything appears in order for preliminary platting. It was clarified that before final plat the City will need to review and approve a steep slope plan as outlined in recommendation 2.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report PL 11-121, Eker Estates Too Preliminary Plat

Commissioner Erickson stated that she has a conflict of interest.

HIGHLAND/VENUTI MOVED THAT COMMISSIONER ERICKSON HAS A CONFLICT OF INTEREST.

Commissioner Erickson explained that she has a financial conflict as outlined in City Code.  
VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

Commissioner Erickson left the table.

Planning Technician Engebretsen reviewed the staff report.

Geoff Coble explained that he did a geotechnical study on the property. He reported that the slope is at about 30% and that he is not qualified to discuss the percentage of property developed in relation to the slope.

There were no public comments regarding this preliminary plat.

Leah Handley, property owner, commented their intent is to follow what the city requires regarding the property. She explained that all the dirt work was completed 20 years ago and it has been set and stable since. The existing home will be on the larger part of the subdivision.

VENUTI/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 11-121 EKER ESTATES TRACT TOO SUBDIVISION PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

## **PENDING BUSINESS**

## **NEW BUSINESS**

- A. Draft Decision and Findings for CUP 11-13, A Request to amend Conditional Use Permit (CUP) 10-06, for "Public Utility Facilities and Structures" for a communication site at 1033 Skyline Drive, Lot 5 Skyline View Subdivision Lying South of Skyline Drive 06 to allow construction of a 96 ft tower.

The motion on the floor from the previous meeting is as follows:

HIGHLAND/SONNEBORN MOVED TO ADOPT STAFF REPORT PL 11-117, A REQUEST TO AMEND CONDITIONAL USE PERMIT (CUP) 10-06, FOR "PUBLIC UTILITY FACILITIES AND STRUCTURES" FOR A COMMUNICATION SITE AT 1033 SKYLINE DRIVE, LOT 5 SKYLINE VIEW SUBDIVISION LYING SOUTH OF SKYLINE DRIVE WITH STAFF RECOMMENDATIONS AND FINDINGS.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

SONNEBORN/HIGHLAND MOVED TO ADOPT THE DECISION AND FINDINGS DOCUMENT FOR CUP 11-13.

Chair Minsch acknowledged that the Commission has thoroughly reviewed findings in the document in their deliberations.

VOTE: YES: MINSCH, DOLMA, VENUTI, HIGHLAND, SONNEBORN

Motion carried.

- B. Draft Decision and Findings for Variance 11-02, A Request to Amend Variance 10-01 to allow the construction of a 96 ft tower in the 20' building setback at 1033 Skyline Drive, Lot 5 Skyline View Subdivision Lying South of Skyline Drive.

The motion on the floor from the previous meeting is as follows:

HIGHLAND/SONNEBORN MOVED TO ADOPT STAFF REPORT PL 11-118, A REQUEST TO AMEND VARIANCE 10-01 TO ALLOW THE CONSTRUCTION OF A 96 FT TOWER IN THE 20' BUILDING SETBACK AT 1033 SKYLINE DRIVE, LOT 5 SKYLINE VIEW SUBDIVISION LYING SOUTH OF SKYLINE DRIVE WITH STAFF RECOMMENDATIONS AND FINDINGS.

There was no further discussion.

VOTE: YES: VENUTI

NO: DOLMA, SONNEBORN, MINSCH, HIGHLAND

Motion failed.

HIGHLAND/DOLMA MOVED TO ADOPT THE DECISION AND FINDINGS FOR VARIANCE 11-03 AT 1033 SKYLINE DRIVE.

Chair Minsch read the findings as provided in the packet into the record.

VOTE: YES: SONNEBORN, VENUTI, HIGHLAND, DOLMA, MINSCH

Motion carried.

Commissioner Erickson returned to the table.

#### **INFORMATIONAL MATERIALS**

- A. City Manager's Report dated November 28, 2011

#### **COMMENTS OF THE AUDIENCE**

Members of the audience may address the Commission on any subject. (3 minute time limit)

There were no audience comments.

#### **COMMENTS OF STAFF**

There were no staff comments.

#### **COMMENTS OF THE COMMISSION**

Commissioner Highland reiterated her dream of harmony and balance between the economy and environment. She wished everyone a Merry Christmas.

Commissioner Erickson said thanks for dinner and wished everyone Merry Christmas and Happy New Year.

Commissioner Sonneborn had no comment.

Commissioner Venuti commented that he had some concern about the decision on the tower and doesn't think the decision was in the interest of the common good. He wonders how it would have worked out if it had been KBBI requesting a tower. He doesn't think the decision was right. But he said he is enjoying the Commission and wished everyone Merry Christmas.

Commissioner Dolma commented this is a great Commission to be on, even if they don't agree they get things done. It is nice to work with the dedicated members.

Chair Minsch said everyone did great, she recognized it can be confusing and she felt like she didn't to a good job tonight. She hopes they can do some role playing when the attorney is here for training.

#### **ADJOURN**

There being no further business to come before the Commission, the meeting adjourned at 8:15 p.m. The next regular meeting is scheduled for January 4, 2012 at 6:30 p.m. in the City Hall Cowles Council Chambers.

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MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: \_\_\_\_\_